

1 JAMES PATRICK SHEA

Nevada Bar No. 405

2 BART K. LARSEN

Nevada Bar No. 8538

3 KYLE M. WYANT

4 Nevada Bar No. 14652

**SHEA LARSEN**

5 1731 Village Center Circle, Suite 150

Las Vegas, Nevada 89134

6 Telephone: (702) 471-7432

7 Fax: (702) 926-9683

Email: jshea@shea.law

8 blarsen@shea.law

9 kwyant@shea.law

10 JENNIFER E. HOEKEL

Nevada Bar No. 12775

11 jennifer.hoekel@huschblackwell.com

**HUSCH BLACKWELL LLP**

12 8001 Forsyth Boulevard, Suite 1500

13 St. Louis, Missouri 63105

Telephone: 314.480.1500

14 Facsimile: 314.480.1505

15 -and-

16 PATRICK M. HARVEY

17 *Admitted Pro Hac Vice*

Patrick.Harvey@huschblackwell.com

18 **HUSCH BLACKWELL LLP**

19 511 North Broadway, Suite 1100

Milwaukee, WI 53202

20 Telephone: 414.273.2100

Facsimile: 414.223.5000

21 *Attorney for Plaintiff*

22 *James V. Deppoleto Jr.*

23 **UNITED STATES DISTRICT COURT**

24 **FOR THE DISTRICT OF NEVADA**

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1 JAMES V. DEPPOLETO JR.,

2 Plaintiff,

3 v.

4 TAKEOVER INDUSTRIES  
5 INCORPORATED, *et al.*

6 Defendant.

CASE NO. 2:22-CV-2013

**JOINT STATUS REPORT**

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8 Pursuant to the Court's Minute Order on July 9, 2024 (ECF No. 78), Plaintiff, James V.  
9 Deppoleto Jr. ("Mr. Deppoleto" or "Plaintiff"), by and through his undersigned counsel, and  
10 Defendants, Takeover Industries Incorporated ("Takeover"), Tom Zarro ("Zarro"), Michael  
11 Holley ("Holley"), Toby McBride ("McBride"), Joseph Pavlik ("Pavlik") and NextGen  
12 Beverages, LLC ("NextGen") (collectively, the "Takeover Defendants"),<sup>1</sup> by and through their  
13 undersigned counsel, hereby submit the following Joint Status Report:  
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15 1. On June 20, 2024, the Parties submitted a Stipulation to Stay the Case and Request  
16 for a Status Check (ECF No. 75), in which the Parties informed the Court that they had continued  
17 to engage in efforts to reach a settlement in this matter and had agreed, in principle, on terms, and  
18 had begun the execution of some of the necessary settlement documents, but needed additional  
19 time for certain corporate formalities to occur in order to approve the settlement.  
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21 2. Because the Parties were engaging in settlement efforts, the Parties jointly  
22 requested that this action and all related deadlines be stayed to allow the Parties additional time to  
23 finalize settlement.

24 3. On June 20, 2024, the Court issued a Minute Order declining to grant a stay but  
25 ordered all pending deadlines to be vacated, and ordered that the Parties file dismissal paperwork  
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27 <sup>1</sup> Plaintiff and the Takeover Defendants may be referred to as the "Parties."  
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1 or a joint status report no later than July 8, 2024.

2 4. On July 8, 2024, the Parties filed a joint status report informing the Court that the  
3 Parties had not executed a final settlement agreement yet. (ECF No. 78.) In response, the Court  
4 ordered that the Parties to file dismissal paperwork or a joint status report no later than July 22,  
5 2024. (ECF No. 78.)

6 5. The Parties have not executed a final settlement agreement, and thus cannot file  
7 dismissal documents at this time.

8 6. The Parties recently agreed to reschedule depositions from July 22-26, 2024, to  
9 August 20 and August 27-30, 2024.

10 7. The Parties' respective positions on the status of settlement are below:

11 a. Plaintiff's Position: The parties unfortunately still have not resolved this  
12 lawsuit. Despite the Takeover Defendants' commitment to providing Plaintiff  
13 with executed resolutions the week of July 8, 2024 – as the Takeover  
14 Defendants expressed in the last joint status report – they still have not done so.  
15 The Takeover Defendants provided Plaintiff with additional documents on the  
16 afternoon of July 22, 2024, but Plaintiff has not completed a review of them yet  
17 and cannot confirm whether all documents which are a prerequisite to  
18 settlement have been received. If the Court feels it necessary, the Parties are  
19 happy to submit another joint status report to the Court on August 30, 2024, to  
20 advise the Court of the status of settlement, if dismissal documents have not  
21 been filed before that time.

22 b. Takeover Defendants' Position: The Parties unfortunately have still not  
23 finalized the settlement in this matter. As previously noted, Plaintiff's counsel  
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1 has demanded that Defendants produce numerous corporate records, and  
2 Defendants have now complied with those requests and produced nearly every  
3 item demanded by Plaintiff. In Defendants' view of the current status of  
4 settlement negotiations, there are two sticking points in negotiations that have  
5 delayed final settlement. Nevertheless, the Parties remain committed to  
6 finalizing this settlement and are actively working toward resolving those issues  
7 and expect to have the matter fully resolved with all necessary settlement  
8 documents executed before the scheduled depositions. **At this point, given that**  
9 **there are only two sticking points preventing final settlement from being**  
10 **reached, Defendants are requesting that the Court order the Parties to a**  
11 **settlement conference with a magistrate judge. Defendants feel that getting**  
12 **all Parties together and sitting down in one room will help bring this matter**  
13 **to a final resolution and help the Parties resolve their dispute as to the**  
14 **remaining two issues. As such, Defendants respectfully request that the**  
15 **Court order all Parties to attend a settlement conference with a magistrate**  
16 **judge.** If the Court feels it necessary, the Parties are happy to submit another  
17 joint status report to the Court on August 30, 2024 to advise the Court of the  
18 status of settlement, if dismissal documents have not been filed before that time;  
19 however, **Defendants feel that the requested settlement conference would**  
20 **be the most productive step toward reaching a settlement at this stage.**  
21 Additionally, the Parties have scheduled depositions for August 20 and August  
22 27-30, 2024 in the event that the settlement is not finalized.  
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1 DATED this 22nd day of July, 2024.

2 **HUSCH BLACKWELL LLP**

3 /s/ Patrick M. Harvey

4 JAMES PATRICK SHEA

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8 KYLE M. WYANT

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10 SHEA LARSEN

11 1731 Village Center Circle, Suite 150

12 Las Vegas, Nevada 89134

13 Telephone: (702) 471-7432

14 Fax: (702) 926-9683

15 Email: jshea@shea.law

16 blarsen@shea.law

17 kwyant@shea.law

18 JENNIFER E. HOEKEL

19 Nevada Bar No. 12775

20 jennifer.hoekel@huschblackwell.com

21 HUSCH BLACKWELL LLP

22 8001 Forsyth Boulevard, Suite 1500

23 St. Louis, Missouri 63105

24 Telephone: 314.480.1500

25 Facsimile: 314.480.1505

26 And

27 PATRICK M. HARVEY

28 *Admitted Pro Hac Vice*

Patrick.Harvey@huschblackwell.com

**HUSCH BLACKWELL LLP**

511 North Broadway, Suite 1100

Milwaukee, WI 53202

Telephone: 414.273.2100

Facsimile: 414.223.5000

*Attorney for Plaintiff*

*James V. Deppoleto Jr.*

**HALL & EVANS LLC**

/s/ Kurt R. Bonds

KURT R. BONDS, ESQ.

Nevada Bar No. 6228

DAVID M. SEXTON, ESQ.

Nevada Bar No. 14951

1160 North Town Center Drive

Suite 330

Las Vegas, Nevada 89144

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

1. On July 22, 2024, I served the following document(s): **JOINT STATUS REPORT**

2. I served the above document(s) by the following means to the persons as listed below:

☒ a. ECF System:

KURT R. BONDS on behalf of Defendants Takeover Industries Incorporated, Tom Zarro, Michael Holley, Toby McBride, Joseph Pavlik and NextGen Beverages, LLC  
nvefile@hallevans.com; bondsk@hallevans.com

DAVID SEXTON on behalf of Defendants Takeover Industries Incorporated, Tom Zarro, Michael Holley, Toby McBride, Joseph Pavlik and NextGen Beverages, LLC  
sextond@hallevans.com

And all other parties requesting notice.

☐ b. United States mail, postage fully prepaid:

☐ c. Personal Service:

I personally delivered the document(s) to the persons at these addresses:

☐ For a party represented by an attorney, delivery was made by handing the document(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place in the office.

☐ For a party, delivery was made by handling the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

☐ d. By direct email (as opposed to through the ECF System):  
Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ e. By fax transmission:

Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax

1 numbers listed below. No error was reported by the fax machine that I used. A copy  
2 of the record of the fax transmission is attached.

3 ☐ f. By messenger:

4 I served the document(s) by placing them in an envelope or package addressed to  
5 the persons at the addresses listed below and providing them to a messenger for  
6 service.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Dated: July 22, 2024.

9 By: /s/ Patrick M. Harvey